

PERMIT NO: WAG – 991000

Coverage Date:

Issuance Date: January \_\_, 2007

Effective Date: February \_\_, 2007

Expiration Date: January \_\_, 2012

**Comment:** Changed dates

**DRAFT!**

IRRIGATION SYSTEM AQUATIC WEED CONTROL  
STATE WASTE DISCHARGE GENERAL PERMIT

**Comment:** Changed title to reflect non-NPDES

State of Washington  
Department of Ecology  
Olympia, Washington 98504-7600

**DRAFT DATE: February 7, 2006**

In compliance with the provisions of  
Chapter 90.48 Revised Code of Washington as amended

**!!PRELIMINARY DRAFT!!**  
**!!FOR REVIEW PURPOSES ONLY!!**  
**!!THIS PERMIT IS NOT THE PERMIT IN USE!!**

Until this permit expires, is modified or revoked, Permittees that have properly obtained coverage by this permit are authorized to discharge to waters of the state in accordance with the special and general conditions that follow.

\_\_\_\_\_  
David C. Peeler, Manager  
Water Quality Program  
Department of Ecology

**Comment:** Changed signature block

## TABLE OF CONTENTS

Comment: Updated to reflect permit

<b>TABLE OF CONTENTS .....</b>	<b>2</b>
<b>SUMMARY OF PERMIT REPORT SUBMITTALS.....</b>	<b>3</b>
<b>PERMIT COVERAGE .....</b>	<b>4</b>
C1.    ACTIVITIES COVERED .....	4
C2.    GEOGRAPHIC AREA COVERED .....	4
C3.    OBTAINING COVERAGE.....	4
<b>SPECIAL CONDITIONS .....</b>	<b>5</b>
S1.    DISCHARGE LIMITATIONS .....	5
S2.    MONITORING REQUIREMENTS.....	6
S3.    REPORTING AND RECORDKEEPING REQUIREMENTS .....	8
S4.    OPERATION AND MAINTENANCE.....	10
S5.    INTEGRATED VEGETATION MANAGEMENT PLAN AND TIME TRAVEL STUDY .....	10
S6.    SPILL PLAN FOR HERBICIDE STORAGE AND APPLICATION SITES .....	10
<b>PUBLIC NOTICE PROCEDURES .....</b>	<b>11</b>
P1.    LEGAL NOTICE PROCEDURES .....	11
P2.    POSTING PROCEDURES.....	12
P3.    VARIATIONS TO THIS PROCEDURE.....	12
<b>GENERAL CONDITIONS.....</b>	<b>12</b>

## SUMMARY OF PERMIT REPORT SUBMITTALS

**Comment:** Updated to reflect changes to permit

Refer to the Special and General Conditions of this permit for additional submittal requirements.

<i>Permit Section</i>	<i>Submittal</i>	<i>Frequency</i>	<i>Submittal Date</i>
S3.A1	Discharge Monitoring Reports (DMR)	Monthly (April - October)	April DMR due May 30 May DMR due June 30 June DMR due July 30 July DMR due August 30 August DMR due September 30 September DMR due October 30 October DMR due November 30
S3.A2	Discharge Monitoring Reports for Fluridone	Monthly (November - March)	November DMR due December 30 December DMR due January 30 January DMR due March 2 February DMR due March 30 March DMR due April 30
S3.B	Annual Treatment Reports	Annually	February 1
S3.C	Notification of Treatments	As necessary	
S3.G	Noncompliance Notification	As necessary	
S5.A	Integrated Aquatic Vegetation Management	1/permit cycle	November 1, 2007
S5.B	Travel Time Study	1/permit cycle	February 1, 2008
S6	Spill Plan	1/permit cycle	November 1, 2007
S6	Update to Spill Plan	1/permit cycle	February 1, 2010
P1.B	Legal Notice Submittal	Annually	February 1
G8.	Application for Permit Renewal	1/permit cycle	180 days prior to expiration of permit
G9 and G19	Additional Information	As necessary	
G13	Upset Notice	As necessary	
G18	Reporting Planned Changes	As necessary	
G20	Reporting Anticipated Non-Compliance	As necessary	

## PERMIT COVERAGE

### C1. Activities Covered

Every irrigation district or irrigation water supplier who applies herbicides to water in irrigation canals or ditches that flows to *[natural surface waters]* of the state must apply for and obtain coverage under this general permit unless those activities are covered under an individual NPDES permit, or are in compliance with FIFRA requirements and exempt under the provisions of the NPDES permit exemption for irrigation return flows.

**Comment:** All permit language in red italic parenthesis needs further review.

### C2. Geographic Area Covered

This general permit covers application of herbicides in irrigation supply systems anywhere in the state of Washington. The specific areas where aquatic weed control activities are covered are described and limited by each application for coverage.

**Comment:** Cleaned up language

### C3. Obtaining Coverage

New Irrigation Supply systems or those seeking coverage after *[90 days after issuance]*

- A. Notify the Department of Ecology (Department) by submission of a completed application form requesting coverage under this permit at least 90 days prior to the planned activity that will result in the discharge to waters of the state.
- B. Publish twice in a local newspaper of general circulation a notice that an application for coverage has been made pursuant to Section 173-226-130(5) WAC. This notice shall specify the last day of the 30 day public comment period.
- C. At the end of the 30 day comment period, the Department will accept the application and review all comments prior to making a determination on whether to grant permit coverage.
- D. The Department intends to notify applicants by mail of their status concerning coverage under this permit. If the applicant does not receive notification of the coverage decision from the Department, coverage under this permit will commence on the 31st day following the Department's acceptance of an application form.

**Comment:** Deleted the old part 1 since it dealt with existing irrigation supply systems requesting coverage. They should have their applications in 180 days before the old permit expires.

**Comment:** Changed numbering and indenting and minor grammatical errors (here and throughout permit)

**Comment:** Needs to match permit dates

**Comment:** Deleted all of C4 (NPDES-related)

## SPECIAL CONDITIONS

### S1. Discharge Limitations

From *[effective date of permit]*, 2007 to *[expiration date of permit]*, 2012, the Permittee is authorized to discharge the aquatic herbicides designated in this permit into irrigation conveyance systems subject to following label directions, applicable state and federal laws and rules regarding pesticides, and complying with the conditions of this permit.

**Comment:** Reworded for clarity

#### A. Temporary Water Quality Modification

The application of herbicides to control aquatic weeds in the irrigation water conveyance system is allowed under this permit so long as the conditions of this permit are satisfied and the exceedance of water quality criteria is limited to the vicinity of the herbicide application and to the minimum time necessary to accomplish the desired aquatic pest control objectives. This temporary water quality modification is allowed only in the confines of the irrigation conveyance system and not in *[natural waters]*.

**Comment:** Reworded for clarity

**Comment:** All permit language in red italic parenthesis needs further review.

#### B. Residual Wastes to *[Natural Waters]*

1. All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.
2. The discharge of any of the following pollutants at a level in excess of that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.
3. No adjuvants shall be used by the Permittee unless specifically allowed through this permit.
4. The points of compliance with these limitations are at monitoring points within or at the terminus of the irrigation system that represent water exiting the irrigation system and entering *[natural waters]*. The limitations are:

**Comment:** Reworked paragraph, no compliance schedule anymore.

<i>Parameter</i>	<i>Maximum instantaneous concentration</i>
Copper, dissolved	25 ug/l
Acrolein	21 ug/l
Xylene	5.1 mg/l
GreenClean	None
Fluridone	None
The maximum daily limitation is defined as the highest allowable discharge at any time.	

**Comment:** Changed from 10 mg/L to 5.1 mg/L. Results from recent Parametrix studies (2004) showed an EC50 of 11.5 mg/l after only two hours of exposure for rainbow trout. The 48-h LC50 is 24.3 mg/l for rainbow trout (xylene + emulsifier). The 48-h LC50 for *Daphnia magna* was 5.1 mg/l (Parametrix, 2004). The concentration of xylene + emulsifier should be less than 5.1 mg/l at the time of discharge. (As sold commercially, xylene is only available in combination with the emulsifier.)

5. For this general permit only, the points of compliance are at *[natural waters]* located where surface water courses existed prior to the alteration of water drainage and creation of reclamation and irrigation projects.

**Comment:** Made instantaneous to reflect biological requirements and easier sampling protocols.

6. For treatments with Green Clean, no monitoring (S2) is required. Reporting and record keeping (S3) is still required. Comment: Added this paragraph for greenclean.
7. Water treated with fluridone may not be discharged to *[natural waters]*. Fluridone treatments are only allowed from November 1 through March 31. Fluridone must only be applied to slow-moving, quiescent waters. No monitoring of fluridone (S2) is required. Reporting and record keeping (S3) is still required. Comment: Added this paragraph for fluridone.
8. Pesticides for which a risk assessment and/or SEPA have not been completed may be applied under a Washington State Department of Agriculture Experimental Use Permit (EUP). No monitoring (S2) is required (other than the monitoring specified in the EUP). Reporting and record keeping (S3) is still required. Comment: Added this paragraph to address Experimental Use Permits. Additional review of this language is needed.

## S2. Monitoring Requirements

- A. The permittee shall monitor all herbicide applications where the treated water eventually flows to *[natural waters]*. The herbicide(s) applied shall be monitored according to the sampling schedule, Table 1 Comment: Deleted "Option 1"

Table 1: Sampling Schedule

Monitoring Site	Parameter	Method Detection Limit	Minimum Sampling Frequency	Sample Type	
Outfall to <i>[natural waters]</i>	Flow		2 times per treatment*	Measurement	Comment: Changed from three samples to two samples for the minimum sampling frequency.
Outfall to <i>[natural waters]</i>	Copper, total dissolved	5 ug/l	2 times per treatment*	Grab	
Outfall to <i>[natural waters]</i>	Hardness (only when monitoring copper)		Concurrently with copper sampling	Grab	
Outfall to <i>[natural waters]</i>	Acrolein	2 ug/l	2 times per treatment*	Grab	
Outfall to <i>[natural waters]</i>	Xylene	1 mg/l	2 times per treatment*	Grab	
None	GreenClean	None	None	None	Comment: Added GreenClean and Fluridone
Outfall to <i>[natural waters]</i>	Fluridone	None	None	None	
*Both samples are intended to identify the highest concentration of the herbicide. Both samples must be taken during the peak herbicide concentration at the compliance point. Samples must be spaced at least <i>[two hours] [?]</i> apart. <span style="float: right; border: 1px solid red; padding: 2px;">Comment: Need to confirm times and assumptions with recent data</span>					

- B. Special Situations Comment: Changed when samples were taken

1. The minimum sampling frequency may be reduced if certain conditions are met and written approval is granted by the Department. A permittee may provide information to the Department that indicates assurance that the travel time from location and circumstances of flow rate for an herbicide's potential maximum concentration at the outlet to [natural water] is known and reliable. If approved by the Department, the minimum sampling frequency may be reduced to no fewer than two samples annually for each treatment site.
2. If treated water (any amount) is held and then released days or weeks later, monitoring according to Table 1 is required until the Department approves reduced monitoring. Before reduced monitoring is approved, the permittee must document that any spills to [natural waters] are prevented for a sufficient length of time to allow the herbicide to degrade to levels below the discharge limitations in S1.B. The documentation can include any combination of information, calculations, and/or monitoring data. The documentation must be sufficient to prove, to the satisfaction of the Department, that when water is released the concentrations of the herbicide would be below the effluent limit. If approved by the Department, monitoring must still occur at least twice annually as per the reduced monitoring allowance in S2.B1.
3. If all treated water is consumed and the end of the canal is dry, then no monitoring is required. This only applies if no treated water (or water mixed with treated water) is held. If any water is simply held, this special situation does not apply. All pesticide applications covered by this condition must be included on the monthly discharge monitoring report (DMR). The DMR must also provide evidence to show that the canal was dry long enough so that all the treated water was consumed.

**Comment:** Reworded this paragraph

**Comment:** Added this "no-spill" situation

**Comment:** Added this "no-spill" situation

#### C. Sampling and Analytical Procedures

**Comment:** Changed lettering

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40 CFR Part 136* or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department. Acrolein testing may follow the procedures of Solid Waste Method 8260.

#### D. Flow Measurement

Appropriate flow measurement devices or methods consistent with accepted industry practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. If devices are used, they

shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years. Instantaneous flow will be recorded and reported to the Department when a sample is taken.

### S3. Reporting and Recordkeeping Requirements

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

**Comment:** Moved second paragraph to S3.E

The report(s) shall be sent to the Aquatic Pesticides Team, Water Quality Program, Department of Ecology, PO Box 47600, Olympia, Washington 98504-7600.

#### A. Discharge Monitoring Reports

**Comment:** Deleted option 1

1. Monitoring results shall be submitted monthly for the treatment months of April through October whether or not the facility was applying pesticides or discharging treated water. Monitoring data shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms for each month shall be received by the Department within 30 days after the end of the month. If there was no treatment by aquatic herbicides during a month, submit the form as required with the words "no applications" entered in place of the monitoring results.

**Comment:** Deleted option 1, changed 45 days to 30 days in an attempt to increase compliance, cleaned up language.

2. If the permittee is applying fluridone, DMRs shall be submitted monthly for November through March. DMR forms for each month shall be received by the Department within 30 days after the end of the month. If there was no treatment by aquatic herbicides during a month, submit the form as required with the words "no applications" entered in place of the monitoring results. For each month with a fluridone treatment, the DMR shall state whether or not any discharge of fluridone treated water to *[natural waters]* occurred.

**Comment:** Added this paragraph for fluridone (with no analytical monitoring needed).

3. See S2.B for more information on DMRs for special situations.

**Comment:** Added reference.

#### B. Annual Treatment Reports

The Permittee shall keep complete application records on a report form. A summary of herbicide application records shall be submitted to the Department no later than February 1 of each year.



C. Notification of Treatments

**Comment:** Changed the format of the weekly notifications to 24 hours.

The Permittee shall telephone, fax, or submit electronically a list of planned treatments to the Department's appropriate regional office at least 24 hours prior to any treatment. This list shall contain the names and locations of the treatment sites.

D. Records Retention

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

E. Recording of Results

**Comment:** Modified this section. Changed first paragraph and moved second paragraph from S3 parag.2

1. For each sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling and (2) the individual who performed the sampling.
2. All laboratory reports providing data for organic and metal parameters shall include the following information: (1) sampling date, (2) sample location, (3) date of analysis, (4) parameter name, (5) CAS number, (6) analytical method/ number, (7) method detection limit (MDL), (8) laboratory practical quantification limit (PQL), (9) reporting units, and (10) concentration detected. Acrolein monitoring data shall include the time of sampling, time of analysis and method of sample transport.

F. Additional Monitoring by the Permittee

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures and sampling locations specified under Condition S2 of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

G. Noncompliance Notification

**Comment:** Changed to match new permit language and to make sense in regards to irrigation district pesticide applications

1. In the event the Permittee is unable to comply with any of the terms and conditions of this permit, the Permittee shall:
  - a. Immediately notify the Department within 24 hours of the failure to comply.
  - b. Immediately take action to prevent the discharge/pollution or otherwise stop or correct the noncompliance.

- c. Submit a detailed written report to the Department within five (5) days. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
2. Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

#### **S4. Operation and Maintenance**

The Permittee shall, at all times, properly operate and maintain all facilities or systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

#### **S5. Integrated Vegetation Management Plan and Time Travel Study**

##### **A. Integrated Vegetation Management Plan**

The permittee shall submit a copy of an Integrated Vegetation Management Plan (IVMP) to the Department on or before November 1, 2007 for review and acceptance. The IVMP shall be implemented after acceptance from the Department.

If treatment to reduce or eliminate herbicide residues is selected as a method to achieve compliance, the Permittee shall submit two copies of approvable plans and specifications in accordance with WAC 173-240 to the Department for review and approval.

##### **B. Time Travel Study**

During 2007, each permittee shall conduct a time travel study that addresses each application site. The results of each time travel study shall be submitted to the Department no later than February 1, 2008. The time travel study shall track the application from the point of application to the compliance point. The time travel study shall be used to verify and calibrate the appropriate sampling time of S2.A.

**Comment:** Deleted the need for an Engineering Report, added time travel study

**Comment:** New study considering the changes that have occurred over the last 5 years, need to update timing information.

**Comment:** Do we need to place conditions on the range of flows? Will changing flows 10% change the velocity significantly?

#### **S6. Spill Plan for Herbicide Storage and Application Sites**

By November 1, 2007, the Permittee shall submit to the Department a spill control plan for the prevention, containment, and control of spills or unplanned discharges from the

**Comment:** Deleted compliance schedule

**Comment:** Changed dates, etc.

application, storage and transportation of herbicides. The Permittee shall review and update the Spill Plan, as needed, and submit an update by February 1, 2010. Changes to the plan shall be sent to the Department. The plan and any supplements shall be followed throughout the term of the permit.

The spill control plan shall include the following:

**Comment:** Reworded section

- A. A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- B. A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- C. A list of all herbicides used, processed, or stored at the facility that may be spilled into state waters.

## **PUBLIC NOTICE PROCEDURES**

### **P1. Legal Notice Procedures**

- A. The Permittee shall publish, prior to each treatment season, a notice in the legal notices section of a local newspaper of general circulation (or nearest regional paper if a local paper does not exist). These legal notices shall be published prior to the first herbicide application of the season. This notice shall include:
  - 1. The purpose of the herbicide application;
  - 2. A general description of the canals to be treated;
  - 3. The herbicide(s) to be used and their active ingredient(s);
  - 4. The approximate date(s) of treatment;
  - 5. The approximate location(s) to be treated;
  - 6. Any water use restrictions or precautions;
  - 7. The posting procedure; and
  - 8. The names and phone numbers of the Permittee and the appropriate Department regional office.
- B. A dated copy of the published notice or an affidavit from the legal Department of the newspaper shall be mailed or faxed to the appropriate Department regional office. This form must be submitted to the appropriate Department office no later than February 1 of the following year, and be mailed or hand delivered to the Department immediately upon request.
- C. In addition, notice can also be provided by general newsletters, special notices enclosed in the annual assessments and individual letters.

## **P2. Posting Procedures**

- A. The Permittee shall post signs at all irrigation canal and drainage ditch accesses within one mile of the point of application for acrolein or xylene that are normally available to the public (such as public road crossings of canals or drainage ditches). The Permittee shall post and maintain all signs prior to the initial application. The Permittee shall use good faith and reasonable effort to ensure that posted signs remain in place throughout the treatment season.
- B. The signs shall include but not be limited to the following information:
1. Name and telephone number of the irrigation district;
  2. Access sites are private property, not to be trespassed upon; and
  3. Water treatments using {the herbicide} to control aquatic plants may occur during the irrigation season.

**Comment:** Deleted duplicative sentence

## **P3. Variations to this Procedure**

The Permittee shall obtain advance written approval from the Department before making variations to the posting and notification procedures listed in this Permit.

## **GENERAL CONDITIONS**

### **G1. DISCHARGE VIOLATIONS**

All discharges and activities authorized by this general permit shall be consistent with the terms and conditions of this general permit. Any discharge of any pollutant more frequent than or at a level in excess of that identified and authorized by the general permit shall constitute a violation of the terms and conditions of this permit.

**Comment:** Deleted old general conditions and replaced them with new boilerplate general conditions, with modifications appropriate for this permit. Still need to check for NPDES vs. State Waste Discharge issues

### **G2. SIGNATORY REQUIREMENTS**

- A. All permit applications shall bear a certification of correctness to be signed:
1. In the case of corporations, by a responsible corporate officer of at least the level of vice president of a corporation;
  2. In the case of a partnership, by a general partner of a partnership;
  3. In the case of sole proprietorship, by the proprietor; or
  4. In the case of a municipal, state, or other public facility, by either a principal executive officer or ranking elected official.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described above and submitted to the Department.
  2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters.
- C. Changes to authorization. If an authorization under paragraph G2.B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph G2.B.2 above shall be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:
- “I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

### **G3. RIGHT OF INSPECTION AND ENTRY**

The Permittee shall allow an authorized representative of Ecology, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records shall be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

### **G4. GENERAL PERMIT MODIFICATION AND REVOCATION**

This permit may be modified, revoked and reissued, or terminated in accordance with the provisions of Chapter 173-226 WAC. Grounds for modification, revocation and reissuance, or termination include, but are not limited to, the following:

- A. When a change which occurs in the technology or practices for control or abatement of pollutants applicable to the category of dischargers covered under this permit;
- B. When effluent limitation guidelines or standards are promulgated pursuant to the CWA or Chapter 90.48 RCW, for the category of dischargers covered under this permit;
- C. When a water quality management plan containing requirements applicable to the category of dischargers covered under this permit is approved; or
- D. When information is obtained which indicates that cumulative effects on the environment from dischargers covered under this permit are unacceptable.

#### **G5. REVOCATION OF COVERAGE UNDER THE PERMIT**

Pursuant with Chapter 43.21B RCW and Chapter 173-226 WAC, the Director may terminate coverage for any discharger under this permit for cause. Cases where coverage may be terminated include, but are not limited to, the following:

- A. Violation of any term or condition of this permit;
- B. Obtaining coverage under this permit by misrepresentation or failure to disclose fully all relevant facts;
- C. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
- D. Failure or refusal of the Permittee to allow entry as required in RCW 90.48.090;
- E. A determination that the permitted activity endangers human health or the environment, or contributes to water quality standards violations;
- F. Nonpayment of permit fees or penalties assessed pursuant to RCW 90.48.465 and Chapter 173-224 WAC;
- G. Failure of the Permittee to satisfy the public notice requirements of WAC 173-226-130(5), when applicable.

The Director may require any discharger under this permit to apply for and obtain coverage under an individual permit or another more specific general permit. Permittees who have their coverage revoked for cause according to WAC 173-226-240 may request temporary coverage under this permit during the time an individual permit is being developed, provided the request is made within ninety (90) days from the time of revocation and is submitted along with a complete individual permit application form.

#### **G6. REPORTING A CAUSE FOR MODIFICATION**

The Permittee shall submit a new application, or a supplement to the previous application, whenever a material change to the activity or in the quantity or type of discharge is anticipated which is not specifically authorized by this permit. This application shall be submitted at least sixty (60) days prior to any proposed changes. The filing of a request by the Permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not relieve the Permittee of the duty to comply with the existing permit until it is modified or reissued.

#### **G7. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

#### **G8. DUTY TO REAPPLY**

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

#### **G9. DUTY TO PROVIDE INFORMATION**

The Permittee shall submit to Ecology, within a reasonable time, all information which Ecology may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to Ecology upon request, copies of records required to be kept by this permit [40 CFR 122.41(h)].

#### **G10. OTHER REQUIREMENTS OF 40 CFR**

**Comment:** NPDES-related

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

#### **G11. ADDITIONAL MONITORING**

Ecology may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

#### **G12. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

### **G13. UPSET**

Definition – "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S3.G; and 4) the Permittee complied with any remedial measures required under this permit.

In any enforcement proceeding, the Permittee seeking to establish the occurrence of an upset has the burden of proof.

### **G14. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

### **G15. DUTY TO COMPLY**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for



permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

#### **G16. TOXIC POLLUTANTS**

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

#### **G17. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or imprisonment of not more than four (4) years, or both.

#### **G18. REPORTING PLANNED CHANGES**

The Permittee shall, as soon as possible, give notice to Ecology of planned physical alterations, modifications or additions to the permitted activity, which will result in

- A. A significant change in the nature or an increase in quantity of pollutants discharged or
- B. A change in or addition of *[natural waters]* receiving treated water.

Following such notice, permit coverage may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

#### **G19. REPORTING OTHER INFORMATION**

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to Ecology, it shall promptly submit such facts or information.

#### **G20. REPORTING ANTICIPATED NON-COMPLIANCE**

The Permittee shall give advance notice to Ecology by submission of a new application or supplement thereto at least forty-five (45) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes,

such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by Ecology.

#### **G21. REQUESTS TO BE EXCLUDED FROM COVERAGE UNDER THE PERMIT**

Any discharger authorized by this permit may request to be excluded from coverage under the general permit by applying for an individual permit. The discharger shall submit to the Director an application as described in WAC 173-220-040 or WAC 173-216-070, whichever is applicable, with reasons supporting the request. These reasons shall fully document how an individual permit will apply to the applicant in a way that the general permit cannot. Ecology may make specific requests for information to support the request. The Director shall either issue an individual permit or deny the request with a statement explaining the reason for the denial.

#### **G22. APPEALS**

- A. The terms and conditions of this general permit, as they apply to the appropriate class of dischargers, are subject to appeal by any person within 30 days of issuance of this general permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226 WAC.
- B. The terms and conditions of this general permit, as they apply to an individual discharger, are appealable in accordance with Chapter 43.21B RCW within 30 days of the effective date of coverage of that discharger. Consideration of an appeal of general permit coverage of an individual discharger is limited to the general permit's applicability or nonapplicability to that individual discharger.
- C. The appeal of general permit coverage of an individual discharger does not affect any other dischargers covered under this general permit. If the terms and conditions of this general permit are found to be inapplicable to any individual discharger(s), the matter shall be remanded to Ecology for consideration of issuance of an individual permit or permits.

#### **G23. SEVERABILITY**

The provisions of this permit are severable, and if any provision of this permit, or application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit shall not be affected thereby.